

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DARRYL DAVIS and STEVEN GROHS,

Plaintiffs,

v.

**SHERRY YATES, SARAH DAVIS, NEW
JERSEY DEPARTMENT OF
CORRECTIONS, SCO JOHN DOE,**

Defendants.

No. 15-cv-6943 (KM)(JBC)

MEMORANDUM and ORDER

KEVIN MCNULTY, U.S.D.J.:

THIS MATTER having been opened to the Court by Plaintiffs Darryl Davis and Steven Grohs on their motion (ECF no. 10) to file a motion for reconsideration out of time, and for reconsideration of this Court's order of October 13, 2015 (ECF no. 6) granting the defendants a 30 day extension of their time to answer or otherwise move in response to the complaint. Had I considered plaintiffs' opposition (ECF no. 7) and denied the extension request, they argue, they could have moved for a default judgment and prevailed in this action.

I will grant leave to file a motion for reconsideration out of time. That said, the motion for reconsideration will be denied. Plaintiff, although appearing *pro se*, is a frequent federal court litigant. He is surely aware that a 30-day extension of time to answer is a simple application, and one routinely granted. Indeed, a 14-day extension is available as of right, without a motion, upon request to the clerk. Loc. Civ. R. 6.1(b). Absent truly extraordinary circumstances, no plaintiff is going to prevail on the merits and obtain a default judgment because an answer was late by 30 days—and in this case it was not late, because an extension was sought and granted. I recognize that

the papers may have crossed in the mails (plaintiffs are paper filers who do not have access to the ECF system), but there is no reason to think that the extension would have been denied, or that any cognizable prejudice resulted.

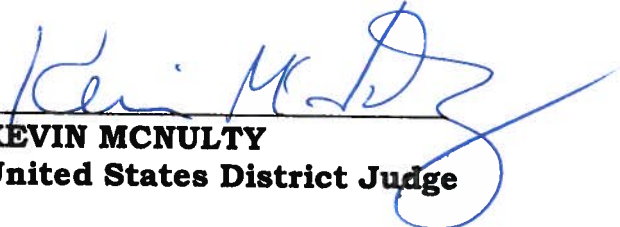
Out of caution, I have examined the plaintiffs' opposition to the extension request. I see no basis therein on which I would have denied the extension.

Accordingly, the Court having considered the papers before it, pursuant to Federal Rule of Civil Procedure 78(b), for the reasons stated in the foregoing Opinion, and for good cause shown:

IT IS this 3d day of August, 2016,

ORDERED that the Plaintiffs' motion (ECF no. 10) to file their motion for reconsideration out of time is **GRANTED**; and it is further

ORDERED that the Plaintiffs' motion for reconsideration (ECF no. 10) is **DENIED** and that the court's order of October 13, 2015, granting defendants a 30 day extension of time to move or answer remains in place.


KEVIN MCNULTY
United States District Judge